

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

MARTHA THURMOND,

Plaintiff,

v.

CREDIT CONTROL, LLC,

Defendant.

Case No. 4:19-cv-04610

**PLAINTIFF'S MOTION TO DISMISS HER COMPLAINT WITH PREJUDICE**

NOW comes MARTHA THURMOND (“Plaintiff”), by and through her attorneys, Sulaiman Law Group, Ltd. (“Sulaiman”), bring this Motion to Dismiss Her Complaint with Prejudice, all parties to bear their own costs and fees. In support thereof, state as follows:

1. On November 25, 2019, Plaintiff filed her Complaint seeking relief pursuant to the Fair Debt Collection Practices Act (“FDCPA”) and Texas Debt Collection Act (“TDCA”). [Dkt.1].
2. After further reviewing the case generally, Plaintiff no longer wishes to litigate this matter and has instructed the undersigned counsel to seek dismissal with prejudice, both sides to bear its own fees and costs.
3. Pursuant to Fed. R. Civ. P. 41(a)(2), “an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper.” Dismissal under Rule 41(a)(2) is within the sound discretion of the Court. *Tyco Laboratories, Inc. v. Koppers Co., Inc.*, 627 F.2d 54, 56 (7<sup>th</sup> Cir. 1980). In exercising its discretion, a court must seek to prevent prejudice to the non-moving parties. *Puerto Rico Maritime Shipping Authority v. Leith*, 668 F.2d 45 (1<sup>st</sup> Cir. 1981). Generally speaking, plaintiffs should be permitted to dismiss their actions freely, unless the defendant would suffer plain legal prejudice. See *Ratkovich v. Smith Kline & French Laboratories*,

1990 U.S. Dist. LEXIS 1279, \*8-9 (N.D. Ill. Feb. 2, 1990). Dismissing a claim with prejudice is a protective measure designed to protect defendants from any prejudice stemming from a dismissal.

*Id.*

4. Because the instant motion seeks a dismissal of Plaintiff's Complaint *with* prejudice with party bearing its costs and attorney's fees, Defendant will suffer no legal prejudice as a result of Plaintiff dismissing her case.

WHEREFORE, Plaintiff, MARTHA THURMOND, respectfully requests that this Honorable Court grant Plaintiff's Motion to Dismiss Her Complaint with Prejudice with each party to bear its own costs and attorney's fees, and for any relief just and appropriate.

DATED: February 12, 2020

Respectfully submitted,

s/ Nathan C. Volheim  
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**CERTIFICATE OF CONFERENCE**

Plaintiff's counsel has conferred with Defendant's counsel about the relief sought in the foregoing motion and Defendant is opposed to the filling of this motion.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on 12<sup>th</sup> day of February, 2020 a copy of the foregoing was filed electronically via CM/ECF with the United States District Court for the Western District of Texas with notification being sent electronically to all counsel of record.

s/ Nathan C. Volheim  
Nathan C. Volheim, Esq. #6302103